

S.D.N.Y. Local Rule 26.2 Privilege Log of Defendant The Port Authority of New York and New Jersey
As of June 12, 2013

Pursuant to Federal Rules of Civil Procedure 26, 33, 34, 37, and S.D.N.Y. Local Rule 26.2 and 26.3, Defendant The Port Authority of New York and New Jersey (the "Port Authority") hereby propounds the underlying partial privilege log containing supplemental information for categories numbered 17, 18, 19, 20, 24, 25, 26, and 27, pursuant to the Court's Opinion and Order of May 8, 2013, asserting the deliberative process privilege pursuant to all applicable Federal, New York and New Jersey laws, for only such communications or documents that are non-objectable, relevant, and in response to Plaintiff's requested discovery under the parameters set forth in the Court's May 7, 2012, Order and October 9, 2012, Order. This privilege log supplements without superseding the privilege log provided by the Port Authority on November 5, 2012. Certain categories and date ranges of communications or documents may include some documents or other materials subject to objection by the Port Authority, or that are not necessarily relevant or otherwise responsive. Additionally, although many of the deliberations were ongoing through the relevant period, approximate decision dates where applicable, along with the date range of the privileged documents reflecting the deliberations leading to those decisions, are indicated on this privilege log. By including certain categories or date ranges on this privilege log, the Port Authority does not waive, and hereby expressly reserves, any applicable objections, including but not limited to relevance, responsiveness, burden, and scope. Any particular document may fall under more than one category. This privilege log contains terms further defined in the Appendix, located at the end of the log. The Port Authority reserves the right to amend this privilege log.

No.	Date	Doc Type	Number of Docs	Authors	Recipients	Number of Individual Authors/Recipients	Privilege Description	Privilege Reason
ADVICE REGARDING THE 2011 PROPOSED TOLL AND FARE INCREASES								
17	10/18/2010 - 8/19/2011	Communications, including e-mails and/or letters	50	Client and/or Client's In-House Counsel	Client and/or Client's In-House Counsel	Total number of authors and recipients: 46 Most highly placed individual: David Samson, Chairman, Board of Commissioners Least highly placed individual: Conor Larz, Special Assistant to the Executive Director	Non-public communications, including documents reflecting communications, reflecting internal deliberations and/or discussing, reflecting, or in furtherance of recommendations, draft documents, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the 2011 proposed toll and fare increases, including whether to raise the tolls and fares; the size of the toll and fare increase; and whether to implement an objective, financial-model based mechanism for future toll and fare increases.	Deliberative Process Privilege

18	Privileged Memoranda, White Paper reports drafted to help readers understand an issue facing the Port Authority, non-final versions of documents of various types that are covered by one of the claimed privileges, and/or other privileged documents that are not communications, memoranda, or white papers.	106	Client and/or Client's In-House Counsel	N/A	<p>Total number of authors and recipients: 45</p> <p>Most highly placed individual: David Samson, Chairman, Board of Commissioners</p> <p>Least highly placed individual: Andrew Austin, Leadership Fellow Assigned to Deputy Executive Director</p>	Non-public memoranda, white papers, draft documents, and/or other documents, reflecting internal deliberations and/or discussing, reflecting or in furtherance of recommendations, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the 2011 proposed toll and fare increases, including whether to raise the tolls and fares; the size of the toll and fare increase; and whether to implement an objective, financial-model based mechanism for future toll and fare increases.	Deliberative Process Privilege
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19	10/14/2011 – 6/5/2012	Communications, including e-mails and/or letters	42	Client and/or Client's In- House Counsel	Client and/or Client's In- House Counsel	Total number of authors and recipients: 41 <u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners <u>Least highly placed individual:</u> Ana Abelians, Senior Executive Secretary to the Deputy Executive Director	Non-public communications, including documents reflecting communications, and other non-public documents, reflecting internal deliberations and/or discussing, reflecting, or in furtherance of recommendations, draft documents, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the 2011 approved toll and fare increases, including but not limited to proposals to modify or suspend them, including adjustments to the toll discount plan for the Bayonne and Goethals Bridges and the Outerbridge Crossing (approximate decision date: Dec. 8, 2011; documents generated Oct. 19, 2011–Dec. 8, 2011); adjustments to the toll discount plan for commercial vehicles (deliberations ongoing during relevant time period); and whether to modify and/or suspend entirely the August 2011 toll and fare increases (deliberations ongoing during relevant time period).	Deliberative Process Privilege
20		Privileged Memoranda, White Paper reports drafted to help readers understand an issue facing the Port Authority, non-final versions of documents of various types that are covered by one of the claimed privileges, and/or other privileged documents that are not communications, memoranda, or white papers.	25	Client and/or Client's In- House Counsel	N/A	Total number of authors and recipients: 36 <u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners <u>Least highly placed individual:</u> Ana Abelians, Senior Executive Secretary to the Deputy Executive Director	Non-public memoranda, white papers, draft documents, and/or other documents, reflecting internal deliberations and/or discussing, reflecting or in furtherance of recommendations, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the 2011 approved toll and fare increases, including but not limited to proposals to modify or suspend them, including adjustments to the toll discount plan for the Bayonne and Goethals Bridges and the Outerbridge Crossing (approximate decision date: Dec. 8, 2011; documents generated Oct. 19, 2011–Dec. 8, 2011); adjustments to the toll discount plan for commercial vehicles (deliberations ongoing during relevant time period); and whether to modify and/or suspend entirely the August 2011 toll and fare increases (deliberations ongoing during relevant time period).	Deliberative Process Privilege

ADVICE REGARDING ITN CAPITAL PLANNING					
24	10/18/2010 – 6/5/2012	Communications, including e-mails and/or letters	23	Client and/or Client's In- House Counsel	Client and/or Client's In- House Counsel
			<p>Total number of authors and recipients: 34</p> <p><u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners</p> <p><u>Least highly placed individual:</u> Chris Valens, Public Information Officer</p>		
			<p>Non-public communications, including documents reflecting communications, reflecting internal deliberations and/or discussing, reflecting, or in furtherance of recommendations, draft documents, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding capital planning and/or expenditures by the Port Authority for the ITN, including which projects to include on the capital plan and the order of prioritization (deliberations ongoing during the relevant time period); formalization of the Port Authority's policies regarding transparency initiatives in relation to capital planning (approximate decision date: Jun. 5, 2012; documents generated Apr. 13, 2012–Jun. 5, 2012); deliberations related to the drafting and approval of the Port Authority's 2011 Budget (approximate decision date: Dec. 7, 2010; documents generated Sep. 22, 2010–Oct. 27, 2010); Authority's Preliminary 2012 Budget (approximate decision date: Dec. 8, 2011; documents generated Apr. 1, 2011–Dec. 7, 2011); and approval or cancellation of capital expenditures projected for 2011, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period).</p>		
			Deliberative Process Privilege		

25	Privileged Memoranda, White Paper reports drafted to help readers understand an issue facing the Port Authority, non-final versions of documents of various types that are covered by one of the claimed privileges, and/or other privileged documents that are not communications, memoranda, or white papers.	50	Client and/or Client's In-House Counsel	N/A	<p>Total number of authors and recipients: 36</p> <p><u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners</p> <p><u>Least highly placed individual:</u> Michael Freydovich, Senior Financial Analyst for Management & Budget</p>	<p>Non-public memoranda, white papers, draft documents, and/or other documents, reflecting internal deliberations and/or discussing, reflecting or in furtherance of recommendations, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding capital planning and/or expenditures by the Port Authority for the ITN, including which projects to include on the capital plan and the order of prioritization (deliberations ongoing during the relevant time period); formalization of the Port Authority's policies regarding transparency initiatives in relation to capital planning (approximate decision date: Jun. 5, 2012; documents generated Apr. 13, 2012—Jun. 5, 2012); deliberations related to the drafting and approval of the Port Authority's 2011 Budget (approximate decision date: Dec. 7, 2010; documents generated Sep. 22, 2010—Oct. 27, 2010); deliberations related to the drafting and approval of the Port Authority's Preliminary 2012 Budget (approximate decision date: Dec. 8, 2011; documents generated Apr. 1, 2011—Dec. 7, 2011); and approval or cancellation of capital expenditures projected for 2011, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period).</p>	Deliberative Process Privilege
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26	10/18/2010 – 5/9/2011	Communications, including e-mails and/or letters	10	Client and/or Client's In- House Counsel	N/A	<p>Total number of authors and recipients: 21</p> <p><u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners</p> <p><u>Least highly placed individual:</u> Danny Jiji, Business Planning Policy for Tunnels, Bridges and Terminals</p>	<p>Non-public communications, including documents reflecting communications, and other non-public documents, reflecting internal deliberations and/or discussing, reflecting, or in furtherance of recommendations, draft documents, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the ITN's capital shortfall, including approval or cancellation of capital expenditures projected for 2011, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period); approval or cancellation of capital expenditures projected for 2012, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period); deliberations related to the drafting and approval of the Port Authority's 2011 Budget (approximate decision date: Dec. 7, 2010; documents generated Sep. 22, 2010—Oct. 27, 2010); deliberations related to the drafting and approval of the Port Authority's Preliminary 2012 Budget (approximate decision date: Dec. 8, 2011; documents generated Apr. 1, 2011—Dec. 7, 2011).</p>	Deliberative Process Privilege
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27	1/23/2009 – 8/4/2011	Privileged Memoranda, White Paper reports drafted to help readers understand an issue facing the Port Authority, non-final versions of documents of various types that are covered by one of the claimed privileges, and/or other privileged documents that are not communications, memoranda, or white papers.	33	Client and/or Client's In-House Counsel	N/A	<p>Total number of authors and recipients: 23</p> <p><u>Most highly placed individual:</u> David Samson, Chairman, Board of Commissioners</p> <p><u>Least highly placed individual:</u> Danny Jiji, Business Planning Policy for Tunnels, Bridges and Terminals</p>	<p>Non-public memoranda, white papers, draft documents, and/or other documents, reflecting internal deliberations and/or discussing, reflecting or in furtherance of recommendations, proposals, suggestions, and/or other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency, regarding the ITN's capital shortfall, including approval or cancellation of capital expenditures projected for 2009, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period); approval or cancellation of capital expenditures projected for 2011, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period); approval or cancellation of capital expenditures projected for 2012, and/or determinations regarding whether to issue debt to fund said capital expenditures (deliberations ongoing during relevant time period); deliberations related to the drafting and approval of the Port Authority's 2011 Budget (approximate decision date: Dec. 7, 2010; documents generated Sep. 22, 2010—Oct. 27, 2010); deliberations related to the drafting and approval of the Port Authority's Preliminary 2012 Budget (approximate decision date: Dec. 8, 2011; documents generated Apr. 1, 2011—Dec. 7, 2011).</p>	Deliberative Process Privilege
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APPENDIX

1. The term "Client" means and refers to the Port Authority, its employees, commissioners, and/or individuals at the New York or New Jersey governors' offices in the course of their duties to oversee the Port Authority.
2. The term "Client's in-house counsel" means and refers to attorneys employed by the Port Authority, including:

Gail Altman	Harry Barr	James Begley
Darrell Buchbinder	Marci DiFrancesco	Paula Dow
Christine Farrington	Iris Goldstein	Christopher Hartwyk
Lawrence Hofrichter	Barbara Hutcheon	Howard Kadin
Stephen Kern	Arnold Kolikoff	David Kromm
Megan Lee	Stephen Marinko	John McDonough
Carlene McIntyre	Kathleen Miller	Sandra Otero
Risa Resnick	Edward Schroll	Thomas Segreto
Brian Smith	Timothy Stickelman	Allison Voetsch-Pinto
Richard Williams		

3. The term "Clients' Counsel" means and refers to the attorneys of Gibson Dunn & Crutcher LLP and/or Venable LLP.